

HANDCARRY TO # 7
A. ROMERO, Examiner
GAU-2700

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of

FARBER et al.

Group Art Unit: 2756

Examiner: Almari ROMERO

Appln. No. 09/612,598

Filed: July 7, 2000

For: **OPTIMIZED NETWORK RESOURCE LOCATION**

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October 3, 2000

**REQUEST FOR ADVANCEMENT OF EXAMINATION
UNDER 37 C.F.R. §§ 1.102 AND 1.607(B)**

Hon. Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Sir:

Applicant respectfully requests advancement of examination of this application under 37 C.F.R. § 1.102 and 1.607(b) so that this application can be placed in interference with U.S. Patent No. 6,108,703, issued August 22, 2000 ("the Leighton '703 Patent").

On September 18, 2000 Applicant filed a REQUEST FOR INTERFERENCE UNDER 35 U.S.C. § 135 AND 37 C.F.R. § 1.607 ("the Request") in the United States Patent and Trademark Office. (A copy of the Request is included with the hand-carried copy of this Paper) The Request was filed to initiate an interference with the Leighton '703 Patent.

The Request complied with 37 C.F.R. § 1.607. In the Request applicant copied claims (including all of the independent claims) from the '703 Patent into the present application [37 C.F.R. § 1.607(4)] and showed support for the copied claims in the present application.

"When an applicant seeks an interference with a patent, examination of the application, . . . shall be conducted with special dispatch within the Patent and Trademark Office." 37 CFR 1.607(b), emphasis added. MPEP 2307.

The MPEP lists special cases which should be “advanced out of turn for examination.” *MPEP 708.01 List of Special Cases*. This application qualifies under paragraph (F) of the List of Special Cases¹ as an application which will be placed in interference with an unexpired patent.

ONGOING LITIGATION RELATING TO THE ‘703 PATENT

Applicant further advises the Commissioner that the alleged owner and the alleged exclusive licensee of the Leighton ‘703 Patent have brought suit in the District Court in Massachusetts against Digital Island, the owner of the present application, for alleged infringement of the ‘703 Patent. In view of the ongoing litigation relating to the ‘703 Patent, the applicant would like to resolve the issue of ownership of the invention with the utmost haste.

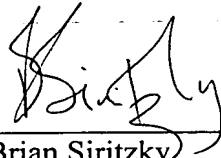
THIS APPLICATION SHOULD BE ADVANCED OUT OF TURN FOR EXAMINATION.

In view of the above, Applicant respectfully requests advancement of examination of this application and official notice to that effect.

Respectfully submitted,

PILLSBURY MADISON & SUTRO, LLP

By



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¹ “The following is a list of special cases (those which are advanced out of turn for examination):

...
(f) Applications which appear to interfere . . . or which will be placed in interference with an unexpired patent or patents (37 CFR 1.201).” *MPEP 708.01. Pg. 700-65, col. 2.*